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Before the
Federal Communications Commission
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
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Establishment of a Class A)
Television Service)
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MM Docket No. 00-10
MM Docket No. 99-292
RM-9260

To: The Commission

REPLY COMMENTS OF SONSHINE FAMILY TELEVISION, INC.

Sonshine Family Television, Inc. ("SFTI"), licensee of television broadcast station WBPH, Channel 60, Bethlehem, Pennsylvania, through counsel, hereby submits these brief Reply Comments concerning some of the comments filed in response to the FCC's *Notice of Proposed Rule Making*, FCC 00-16, released January 13, 2000, in the above-captioned proceeding.

In its own Comments, SFTI pointed out that WBPH has been assigned a DTV allotment on Channel 59, meaning that both its NTSC and DTV allotments are outside the so-called "core spectrum" (Channels 2-51) within which all television stations must operate following the completion of the transition to DTV. SFTI pointed out that a "maximization" application filed for WBPH-DT on Channel 59 on or before May 1, 2000, would have no direct bearing on potential conflicts with Class A LPTV licenses operating in the core spectrum in the post-transition environment. It also noted that provision must be made for accommodating stations such as WBPH-DT in the core spectrum so that the FCC doesn't end up creating a permanent underclass of less-than-maximum power DTV stations. Last, SFTI directed the FCC's attention to provisions of the Community Broadcasters Protection Act (the "CBPA") that clearly demonstrate Congress's intention that no full-

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power DTV licensee would find itself without the opportunity to maximize DTV facilities once the transition has been completed.

The problem confronting SFTI is addressed in the comments of parties who are in the same situation (e.g., Comments of WLNY-TV, Inc.), parties who are in analogous situations (e.g., Comments of Certain Channel 2-6 Licensees and Comments of Fox Television Stations, Inc. (“Fox”)), and parties with a broader interest in assuring that all full-power television stations are provided with an equal opportunity to maximize DTV service areas in the post-transition environment (e.g., Comments of the Association for Maximum Service Television, Inc., and the National Association of Broadcasters (“MSTV/NAB”)). SFTI’s Reply Comments address those specific comments.

WLNY-TV, Inc., suggests that the FCC can preserve the maximization opportunities of full-power stations with out-of-core NTSC and DTV allotments by “conditioning the grants of Class A status to LPTV stations located in the markets of the 13 full power stations which are presently without permanent DTV channel assignments.” *WLNY-TV, Inc., Comments*, p. 6. Unfortunately, this proposal suffers at least two shortcomings. First, while this “solution” might work for WLNY-TV, there is no assurance that it would be comparably efficacious for WBPH-DT. Bethlehem, Pennsylvania, is not located in the central part of the Philadelphia television market; it is possible, if not likely, that its permanent channel allotment will have effects on LPTV stations in the Scranton-Wilkes-Barre and Lancaster-York-Harrisburg markets and conceivably as far away as Baltimore. Second, as illustrated by the comments of Channel 2-6 Licensees, it does not address the situations of full-power stations with out-of-core DTV allotments whose ability to return to their in-core allotments at the end of the transition is, for the moment, subject to conjecture.

The fact is, “conditional” Class A LPTV licenses would be redundant. The CBPA directs the FCC to “make such modifications [to Class A LPTV licenses] as necessary” to preserve “a full-power station’s allotted parameters or *channel assignment*.” 47 U.S.C. § 336(f)(1)(D)(emphasis added). The statute, therefore, effectively makes all Class A LPTV licenses conditional on successfully accommodating all out-of-core full-power DTV stations on permanent channel assignments in the core spectrum, with maximum facilities.

What remains for the FCC is to devise a means for accommodating maximization opportunities for out-of-core full-power DTV stations while attempting to limit the disruption of Class A LPTV service. Fox asserts that issues relating to the “repacking” of the spectrum in the post-transition era are beyond the scope of this proceeding. *Fox Comments*, pp. 8-9. That is certainly true as to some matters but, from a practical standpoint, the FCC must address now, before it creates Class A LPTV stations, how the accommodation of out-of-core full-power DTV stations may affect Class A LPTV service.

In its Comments, SFTI suggested that out-of-core full power DTV stations seeking permanent allotments in the core spectrum should be required to attempt to minimize interference to Class A LPTV service. *SFTI Comments*, p. 5. This proposal requires clarification. The MSTV/NAB Comments suggest full-power stations seeking new DTV allotments that would displace Class A stations should be required to demonstrate only that their proposal “is a reasonable means to address the problem.” SFTI continues to believe that minimization of conflicts between Class A stations and full-power stations seeking to move into the core spectrum is a desirable objective but, as is implicit in the MSTV/NAB comments, should be subject to reasonable limitations. For example, full-power DTV stations should not be put to the burden and expense of locating new transmitter sites and

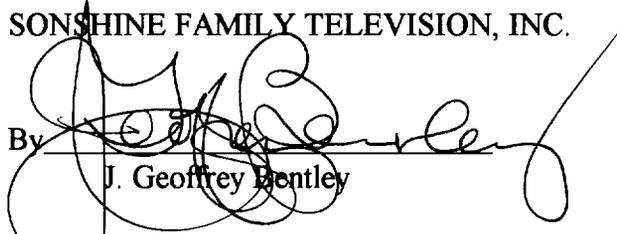
constructing new transmission towers and related facilities solely to avoid interference to Class A stations. Neither should they be obliged to accept interference.

The CBPA creates a framework for creation of a Class A LPTV service. The FCC's responsibility is to fill in the gaps left by the statute. Congress evidenced no intention to interfere with the regime established by the FCC for the transition from NTSC to DTV broadcasting. Indeed, by cross-referencing definitions and rules adopted by the FCC for DTV, and by embargoing channels necessary to accommodate out-of-core full-power DTV stations, Congress manifested its intention to leave the transition to DTV unaffected and incorporated the FCC's DTV plans into the CBPA's framework for Class A LPTV service. The FCC, therefore, should not read an intention to repeal parts of the DTV transition scheme into the statute where no such intention has been explicitly expressed. Rather, it should adopt rules for the Class A service that (1) honor the intention of Congress and the framework created by the CBPA and (2) provide for an unobstructed transition to permanent DTV allotments for all full-power stations.

Respectfully submitted,

SONSHINE FAMILY TELEVISION, INC.

By



J. Geoffrey Bentley

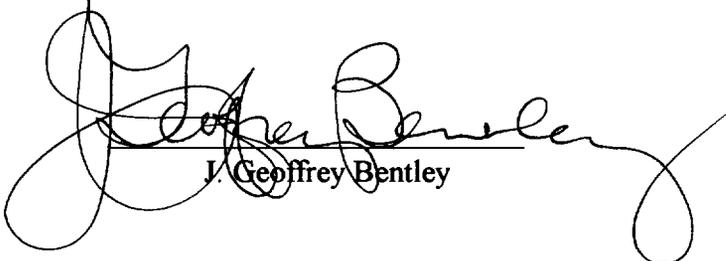
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February 10, 2000

CERTIFICATE OF SERVICE

I hereby certify that I have caused a copy of the foregoing Reply Comments to be served by first-class United States mail, postage prepaid, on the following persons, this 22d day of February 2000.



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